

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

BEFORE THE CHIEF PROCUREMENT
OFFICER FOR CONSTRUCTION

IN THE MATTER OF: BID PROTEST

DECISION

CHOATE CONSTRUCTION
COMPANY

CASE NO. 2008-0010

v.

WINTHROP UNIVERSITY

POSTING DATE:
MARCH 7, 2008

CAMPUS CENTER CONSTRUCTION
STATE PROJECT H47-9533-SG-B

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from Choate Construction Company under the provisions §11-35-4210 of the South Carolina Consolidated Procurement Code, for an administrative review on the Campus Center Construction Bid ("the Project") for Winthrop University. Choate protest Winthrop's posting of a Notice of Intent to Award a contract for construction of the project to Leitner Construction Co., Inc. [A copy of this letter is attached as Exhibit "A"] Pursuant to S.C. Code Ann. §11-35-4210(3) (Supp. 2006), the CPOC conducted an administrative review without a hearing. This decision is based on that review and the applicable law and precedents.

FACTUAL BACKGROUND

On November 19, 2007, Winthrop advertised for bids to construct the project. Winthrop's solicitation required each bidder to list on their bids the subcontractors they would use for the plumbing work. On January 29, 2008, Winthrop opened bids for construction of the Project. Edifice Incorporated submitted the low bid, Manhattan Construction Company submitted the second low bid, Choate submitted the third low bid and Leitner submitted the high bid. [Exhibit B]. Choate, Edifice, and Manhattan listed Full Service Plumbing Co., Inc., on the line in their bid for listing the plumbing subcontractor.

After opening bids, Winthrop proceeded to evaluate the responsibility of the low bidder, Edifice, including determining the class of license held by each listed subcontractor. Winthrop determined that Full Service did not hold the proper contractor's license. Having determined that Full Service's license was not sufficient for the plumbing work on the project, Winthrop determined Choate, Edifice, and Manhattan to be non-responsible.

After determining the three lowest bidders to be non-responsible, Winthrop had only one bid to consider, the bid of Leitner. However, Leitner's bid of \$26,420,615 exceeded Winthrop's construction budget for the contract by \$520,615. [See page 2 of the SE-310 attached as Exhibit C] Relying on the provisions of SC Code Ann § 11-35-3020(2)(d) Winthrop entered into negotiations with Leitner to bring the project within the construction budget. Winthrop and Leitner negotiated a contract in the amount of \$24,639,715, \$1,780,900 less than Leitner's bid on bid day. [Exhibit D]

On February 7, 2008, Winthrop sent Choate, Edifice, and Manhattan individual letters notifying them that Winthrop had determined that they were non-responsible bidders. [Exhibit E] That same day, Winthrop posted a Notice of Intent to Award a contract to Leitner. [Exhibit F] On February 15, 2008, Choate mailed a letter to John R. Stevens (the State Procurement Officer and manager of the State Procurement Office) protesting Winthrop's award to Leitner.¹ Mr. Stevens received the letter of protest on February 19, 2008 and upon recognizing that Choate had erroneously sent the letter to him rather than the CPOC, delivered the letter to the CPOC's administrative assistant. The CPOC's administrative assistant placed the letter of protest on the CPOC's desk that same day. Per SC Code Ann § 11-35-4210, February 19, 2008, was the last day for receipt of protests.²

¹ Winthrop used the 7/01 Edition of the Notice of Intent to Award a Contract which does not provide a protestant with precise mailing information for filing a protest. Both the 12/11/07 Edition of the Notice and its immediate predecessor, the 6/14/06 Edition, provide the protestant with precise mailing information for filing a protest. The CPOC declines to address what affects Winthrop's failure to use the proper form would have had on the protest had the CPOC failed to receive the protest by the statutory deadline to do so. The CPOC does note that the Notice used by Winthrop states a party must protest within 15 days of posting the Notice rather than the 10 days provided in the Procurement Code.

² The tenth day after posting the Notice of Intent to Award was a Sunday and the following Monday was a legal Holiday.

NATURE OF THE PROTEST

Choate protests Winthrop's determination that by listing Full Service in the space on the bid form for listing the plumbing subcontractor, it, Edifice, and Manhattan were non-responsible bidders. Choate notes that one of Choate's principles, Steven Ambrosio, has a South Carolina Contractor Licensing Board Qualifying Party Certificate. Choate argues that this Certificate permits Mr. Ambrosio to bid and perform the plumbing work and since Mr. Ambrosio is Full Service's qualifying party, Full Service is also fully qualified to bid and perform the plumbing work on the project. [Mr. Ambrosio's Qualifying Party Certificate is attached as Exhibit G]

Choate further argues that even if Full Service is not qualified under South Carolina licensing law, it was inappropriate for Winthrop to declare it, Edifice, and Manhattan to be non-responsible. Instead, Choate argues, Winthrop should have allowed them to submit a substitution subcontractor pursuant to SC Code Ann § 11-35-3020(2)(b)(iii)(ee).

Finally, Choate seems to argue that it was inappropriate for Winthrop to negotiate with and make an award to Leitner for the project with reductions in scope when Winthrop could have obtained the project for less money and without a scope change by making an award to any one of the three lower bidders.

DISCUSSION

RESPONSIBILITY

After opening bids, Winthrop was required to award a contract to the "lowest responsive and responsible bidder" unless it had a compelling reason to reject all bids.³ SC Code Ann § 11-35-3020(2)(c); See also § 11-35-1810. The key issue here is the Procurement Code's requirement that award be made to a "responsible bidder." The Contractors Licensing Act requires a contractor to possess the proper license at the time of bidding. SC Code Ann §

³ The Procurement Code has a preference for award of a contract after bid opening and places limitations on the ability to reject all bids. Acceptable reasons for rejection of all bids are set forth in SC Reg. 19-445-2065. The determination to reject all bids in accordance with this provision is one for the Agency to make. In this case, the Agency chose not to reject all bids.

SC Code Ann § 40-11-30. Possession of the proper contractor license, either by the bidder or one of the bidder's listed subcontractors is an issue of responsibility. Protest of Burkwood Construction Company, Inc., Case No. 1997-8; Protest of Roofco, Inc., Case No. 2000-14(I). If, at the time of bidding, Full Service did not possess the proper license for performing the plumbing work on this project then neither Full Service nor the bidders who listed Full Service on their bids were responsible bidders.

The Project designers estimated the plumbing work for the project at approximately \$800,000 in value. At the time of bidding, Full Service possessed a mechanical contractor license with a plumbing subclassification in the Group 3 license group. [Exhibit H] The Group 3 license group only permits Full Service to bid and contract to perform plumbing work with a value of \$50,000 or less. SC Code Ann. §§ 40-11-260(B)(3)(a) and 270. Accordingly, Full Service was a non-responsible plumbing subcontractor. By choosing to list Full Service as the plumbing subcontractor on their bids, Choate, Edifice, and Manhattan were also non-responsible bidders.

Choate argues, however, that Mr. Ambrosio, a Full Service principle, possesses a South Carolina Qualifying Party Certificate which qualifies Full Service to perform the plumbing work on this project. Under the Contractor Licensing Act, an entity other than a natural person must have a Qualifying Party. The Qualifying Party is a person who has been issued a certificate by the Contractor's Licensing Board to qualify the entity for a "license by way of examination in a license classification or subclassification." SC Code Ann § 40-11-20(20). Mr. Ambrosio is Full Service's Qualifying Party. Mr. Ambrosio's Qualifying Party Certificate allowed Mr. Ambrosio to take the plumbing contractors licensing exam on behalf of Full Service and to qualify Full Service for the plumbing subclassification it holds. However, Mr. Ambrosio's Qualifying Party Certificate only determines the subclassification assigned to Full Service, not the license group. Full Services license group was determined by the financial statements Full Service filed with the Contractors Licensing Board when it applied for its license. SC Code Ann § 40-11-260(B). Full Service was determined to be non-responsible because its license was in the wrong license group not because it was in the wrong subclassification. Because Mr. Ambrosio's Qualifying Party Certificate has nothing to do with Full Service's license group, Choate's reliance on this Certificate as a

Service's license group, Choate's reliance on this Certificate as a basis to declare Full Service responsible is misplaced.

SUBCONTRACTOR SUSTITUTION

Choate argues that if Full Service was not properly licensed for the plumbing work, Winthrop should have allowed it and other bidders to substitute a different plumbing subcontractor in Full Service's place rather than declare them to be non-responsible. In so arguing, Choate relies on the provisions of SC Code Ann Sect. 11-35-3020(2)(b)(iii)(ee). This provision provides that a contractor may submit a substitution contractor "upon a showing satisfactory to the using agency by the contractor that the listed subcontractor is required to be licensed and does not have the license by the time it is required by law."

Substitution is not appropriate in this case. Full Service was required to have a license at the time it submitted a bid to Choate. Because Full Service was not properly licensed, Choate could not legally consider Full Service's bid. SC Code Ann § 11-40-200(B). It is the bidder's responsibility to determine that its listed subcontractor's are appropriately licensed before submitting a bid to the State. A bidder cannot cure its failure to determine the responsibility of its listed subcontractors before bidding by using the subcontractor substitution provisions of the Procurement Code. Protest of Burkwood.

To allow bidders to list an unlicensed or inappropriately licensed subcontractor in their bids and then make a substitution after bid opening allows bidders to circumvent the intent of the subcontractor licensing provision of the Procurement Code. This provision is intended to stop bid shopping. However, if a bidder can list an unlicensed subcontractor and make a substitution, the bidder can always set the stage to shop bids. For this reason, the Procurement Review Panel has held that in a case such as this, a substitution may only be made when the circumstances giving rise to the request

occur after the posting of the notice of award.⁴ Protest of Burkwood; Protest of Pizzagalli Construction Company, Case No. 1991-8; See also Melloul-Blamey Construction v. Clemson University, Case No. 2008-003A (CPOC), footnote 3. Here, the circumstances giving rise to the request for substitution occurred prior to the posting of the notice of award and substitution was not an available remedy.

NEGOTIATIONS

The Procurement Code allows an agency to negotiate with the lowest responsive and responsible bidder upon a written determination that the following conditions exist:

1. Bids received exceed available funds; and
2. The Agency determines in writing that:
 - a. Circumstances do not permit the delay required to resolicit competitive sealed bids; and
 - b. The base bid does not exceed available funds by an amount greater than 10% of the construction budget.

SC Code Ann § 11-35-3020(2)(d)(1). The Agency's determination to negotiate is "final and conclusive unless clearly erroneous, arbitrary, capricious, or contrary to law." SC Code Ann § 11-35-2410.

Winthrop complied with the requirements of the Consolidated Procurement Code and Contractor Licensing Law when It declared Choate, Edifice, and Manhattan to be non-responsible. When it did so, Winthrop only had one valid bid left for consideration. That one responsive and responsible bid exceeded the construction budget by an amount substantially less than 10% and Winthrop determined that circumstances did not permit the delay required to resolicit competitive sealed bids. Under these circumstances, Winthrop could legally negotiate with Leitner and its decision to do so was not "clearly erroneous, arbitrary, capricious, or contrary to law."

⁴ Sect. 11-35-3020(2)(b)(iii)(ee) applies when, after award, the listed subcontractor's license expires or is revoked and the subcontractor does not renew or obtain a new license prior to the start of work. Protest of Burkwood.

DECISION

It is the decision of the Chief Procurement Officer for Construction that 1) Choate, Edifice, and Manhattan listed on their bids a plumbing subcontractor that did not hold the proper license for the plumbing work on this project; 2) Winthrop properly declared Choate, Edifice, and Manhattan to be non-responsible; 3) Subcontractor substitution was not a remedy available to Choate, Edifice, and Manhattan; and 4) Winthrop's decision to negotiate with Leitner was not "clearly erroneous, arbitrary, capricious, or contrary to law."

For the foregoing reasons Protest denied.


John St. C. White
Chief Procurement Officer
For Construction


Date

Columbia, South Carolina

STATEMENT OF THE RIGHT TO APPEAL

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision under subsection (4) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a further administrative review by the Procurement Review Panel under Section 11-35-4410(1) within ten days of posting of the decision in accordance with Section 11-35-4210(5). The request for review shall be directed to the appropriate chief procurement officer, who shall forward the request to the panel, or to the Procurement Review Panel and shall be in writing, setting forth the reasons why the person disagrees with the decision of the appropriate chief procurement officer. The person may also request a hearing before the Procurement Review Panel.

Additional information regarding the protest process is available on the internet at the following web site:
www.procurementlaw.sc.gov

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 66.1 of the 2005 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410(4). . . . Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2005 S.C. Act No. 115, Part IB, § 66.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, a business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003). Copies of the Panel's decisions are available at www.state.sc.us/mmo/legal/paneldec.htm



RECEIVED

FEB 19 2008

OFFICE OF STATE ENGINEER

February 15, 2008

Letter Sent UPS
Tracking #1Z2E72504295889733
and
E-mail to protest-itmo@cio.sc.gov

EXH. A

John R. Stevens
Chief Procurement Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, SC 29201
(803) 737-0600
FAX:(803) 737-0639

Re: State Project H47-9533-SG-B Campus Center Construction Bid Protest

Dear Mr. Stevens,

In accordance with Article 17 – Legal and Contractual Remedies, Section 11-35-4210 of the South Carolina Code of Laws, Choate Construction Company hereby submits its formal written protest to the Notice of Intent to Award to Leitner Construction Co., Inc. issued in response to the State Project H47-9533-SG_B Campus Center Construction bid.

We are protesting our non-responsible bid notice dated February 7, 2008, from Walter A. Hardin, Associate Vice President, Facilities Management which stated that our bid was determined to be non-responsible as described in section 6.15 C-2 of the Manual for Planning and Execution of State Permanent Improvements Part II due to our listed Plumbing subcontractor Service Plumbing Co. Inc., (Service Plumbing) not possessing the proper license limitation at the time of the bid.

It is our position based on the attached South Carolina Contractor's Licensing Board Qualifying Party Certificate, Certificate No. 4897 that Full Service Plumbing does possess the proper license limitations required to meet all the bid requirements.

If after further investigation, it is determined that Service Plumbing does not possess the proper license limitation then we would substitute Tri/Meck Mechanical, Inc., SC License # M-2334 Class 5 at no increase to our bid price in accordance with Article 9, Sub-Article 3, Section 11-35-3020, subsection 2-b-iii-ee, which allows for the substitution of a listed subcontractor if there is a licensing issue at the time of bid.

Currently, the Notice of Intent to Award shows that Leitner Construction Co. Inc. has re-negotiated their bid from \$26,420,615 to \$24,639,715 which is a decrease of \$1,780,900.

Choate Construction Company
2907 Providence Road • Suite 400
Charlotte, NC 28211
(704) 556-0550 • Fax (704) 556-0601
www.choateco.com

This decrease would indicate that the University is paying more for a building with less features than the other bids that were determined to be non-responsible incorrectly.

Base on an allowable substitution per the South Carolina Code of Laws, Choate Construction's bid should have been accepted and considered a responsive bid. Therefore, we formally request that you allow all bidders that carried Full Service Plumbing Co., Inc. to be considered responsive, allow the bidders to substitute a new plumbing subcontractor or throw out all bids and re-advertise the bid to ensure that the University is getting the best value for the project.

Please accept this letter as our formal protest for the aforementioned bid and advise of your position on the facts presented.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Pearlman", with a stylized, flowing script.

Adam Pearlman
Vice President of Operations

Cc: Walter A. Hardin – Associate Vice President, Facilities Management
Dave Priester – Choate Construction Company
Winthrop University Bid File

2:00 PM 29 January 2008

Campus Center Construction – Winthrop University

**Choate Construction Company
2907 Providence Road
Suite 400**

Charlotte, NC 28211

Leitner Construction Company, Inc.
P.O. Drawer 12190
1800 Saluda Road

Rock Hill, SC 29731

**Manhattan Construction Company
401 Brookfield Parkway
Suite 400**

Greenville, SC 29607

Bid Security

Certified Check

CE-335 Bid Bond

**Electronic Bid Bond
Authorization Number**

Addendums Acknowledged

Unit Prices 1 through 8

SC License Number

Base Bid Amount

Base Bid Work

Choate Construction Company

Edifice Incorporated

Leitner Construction Company, Inc.

Manhattan Construction Company

\$ 25,968,000

\$ 23,650,000

\$ 26,420,000

\$24,991,000

Subcontractor Specialty

Subcontractor Specialty	Subcontractor's Name or Prime Bidder's Name	Subcontractor's Name or Prime Bidder's Name	Name	Name
Mechanical	TEACNY	TEACNY	TEACNY	TEACNY
Plumbing	FULL SERVICE	FULL SERVICE	RAY BROS INC	FULL SERVICE
Electrical	WATSON	WATSON	WATSON	WATSON
Fire Protection	GUINNETT	GUINNETT	ORRUFORD SPRINKLER	GUINNETT
Steel Erection	QUINMAN	FLOWING STEEL ERECTION	HUBBARD STEEL CO.	CNC SC STEEL

204- WATKINS By Alan O. Bornmueller, AIA

Steel Erection

Ride Opened and Read By: Walter A. Hardin, Associate VP for Facilities Management, University of Tennessee



07/01 Edition

SE-310

Invitation for Construction Bids

EXH. C

SCBO NOTES 2, 4 and 5 APPLY TO THIS INVITATION FOR BIDS

PROJECT NAME: Campus Center ConstructionPROJECT NUMBER: H47 - 9533 - SG - BPROJECT LOCATION: Winthrop University - Rock Hill, SCBID SECURITY REQUIRED? Yes ☒ No ☐ The Contractor will ☒ will not ☐ be subject to a performance appraisal as defined in the Manual for Planning and Execution of StatePERFORMANCE BOND REQUIRED? Yes ☒ No ☐ Permanent Improvements, Part II. (Agency MUST check one)PAYMENT BOND REQUIRED? Yes ☒ No ☐ CONSTRUCTION COST RANGE: >\$20,000,000DESCRIPTION OF PROJECT: The Scope of Work is approximately 118,000 square feet of space in addition to covered connector and outdoor plazas. Program space includes bookstore, student life administration, university post office, student government offices, meeting and conference rooms, 230 seat movie theater, 400 seat banquet hall, food court, and study and lounge areas.A/E NAME: DP3 Architects, Ltd.A/E CONTACT: Alan O. BommueillerADDRESS: 211 East Broad StreetPHONE: 864-232-8200 Fax: 864-232-7587CITY: GreenvilleSTATE: SC ZIP: 29601E-MAIL: abommueiller@DP3architects.comPLANS ON FILE AT: AGC: Greenville, SCColumbia, SCCharlotte, NCBODGE: Greenville, SCColumbia, SCCharlotte, NC

OTHER: _____

PLANS MAY BE OBTAINED FROM: DP3 Architects, Ltd.PLAN DEPOSIT AMOUNT: \$500.00IS DEPOSIT REFUNDABLE? Yes ☒ No ☐PRE-BID CONFERENCE? ☒ Yes ☐ NoMANDATORY ATTENDANCE? ☒ Yes ☐ NoDATE: 12/13/2007TIME: 10:00 AMPLACE: Facilities Management OfficeAGENCY: Winthrop UniversityNAME AND TITLE OF AGENCY COORDINATOR: Walter A. Hardin, Associate VP for Facilities ManagementADDRESS: 701 Oakland AvenuePHONE: 803-323-2261 Fax: 803-323-4295CITY: Rock HillSTATE: SC ZIP: 29733E-MAIL: hardinw@winthrop.eduBID CLOSING DATE: 01.29.2008TIME: 2:00 PMLOCATION: Facilities Management Conference Rm

BID DELIVERY ADDRESSES:

HAND-DELIVERY: Facilities Management OfficeMAIL SERVICE: Facilities Management OfficeAlumni DriveAlumni DriveRock Hill, SC 29733Rock Hill, SC 29733

IS PROJECT WITHIN AGENCY CONSTRUCTION CERTIFICATION? (Agency MUST check one)



YES



NO

APPROVED BY:

Stanley P. Bailey
(State Engineer)11/14/07
(Date)

SE-310

DO NOT INCLUDE THIS PAGE IN THE PROJECT MANUAL.
ENTIRE FORM MUST BE COMPLETED PRIOR TO ADVERTISING PROJECT FOR BIDS.

PROJECT: H47 - 9533 - SG - B Campus Center Construction

(Number)	(Name)
1. BUDGET	2. PROJECT DATA
Total Approved Project Funding: \$29,400,000.00	Gross Square Footage: 128,000
Construction Budget for this Contract: \$25,900,000.00	Estimated Bldg. Cost: \$23,600,400.00
Final Estimate of Construction Cost: \$25,725,400.00	Estimated Site Cost: \$2,095,000.00

(The Final Estimate of Construction Cost cannot be greater than the Agency's Construction Budget for this Project.)

3. SUBMITTAL TO LOCAL AUTHORITIES (See Chapter 5 of the Manual)

Plans and Specifications have been submitted to Local Authorities: Yes ☒ No ☐

If No, Explain: _____

Names and Contact Information for Local Authorities: Bill Meyer
 Zoning Approval
 City of Rock Hill Development Office
 T 803-329-7083 F 803-329-7228
 (Provide phone, fax and e-mail if available) mmattsson@clrock-hill.sc.us

4. FLOOD HAZARD (Provide ALL of the following information for ALL projects, even if not in a flood hazard zone)

Flood Map Information: Flood Zone: X Community Number: 450 196 005C Panel Number: 5 of 8
 Is the Project Site in a 100-Year Flood Plain? Yes ☐ No ☒ (A Floodplain Permit is required for A and V Zones)

5. STATUS OF PERMITS AND APPROVALS REQUIRED PRIOR TO BID ADVERTISEMENT

(Copies of all Permits and Approvals MUST be attached prior to advertisement.)

FLOODPLAIN (OSE approval required, not subject to certification) NA

DHEC (List Individual Permits and/or Approvals) Food Service Drawings are for information only.

Status of Each Permit/Approval: The Food Service Equipment is not a part of this contract and will be permitted by the Food Service Provider.

SCDOT NA

ZONING (Include Name of Local Authority) NA

Status of Permit/Approval: _____

OTHER (List Separately) NA

Status of Each Permit/Approval: _____

6. EROSION AND SEDIMENT CONTROL

All Land Disturbing Activity associated with this project shall be performed pursuant to the Contract Documents.

AGENCY CERTIFICATION: I hereby certify that all of the information on this SE-310 is true and accurate. I further certify that the Agency has authorized, unencumbered funds available for obligation to a contract for the project to be advertised. I hereby request the State Engineer to advertise the above-named Project.


 (Signature of Agency Project Coordinator)

Assoc. V.P., FACILITIES

(Title)

11-13-07

(Date)

SUBMIT TO OSE: 1. SE-310 (Original & 1 copy of pages 1 & 2)
 2. Copies of all permits and approvals listed in Section 5.

(Note: The State Engineer will review and send an approved copy to SCBO)

LEITNER

CONSTRUCTION CO., INC.

February 7, 2008

Winthrop University
Attn: Walter Hardin
Alumni Drive
Rock Hill, SC 29733
Campus Center
Re: ~~Thurmond Auditorium~~

Dear Walter:

Leitner Construction original base bid was \$26,420,615.00. The negotiated contract amount is \$24,639,715.00. This amount was achieved by many changes and deductions. The following is a list of these changes:

01. Changes in Fire Proofing specifications
02. Eliminating Flemish bond masonry in various locations
03. Changing Gas Piping to Socket Welds
04. Changing Aluminum Dishwasher Duct
05. Eliminate Metal Ceiling in Board Room & Finishing Drywall
06. Removing Curved Wood Ceiling in Lobby 149 & Replace with Drywall
07. Using Alternate Lighting Fixtures
08. Eliminate portion of Service Road
09. Change Slate to Quarry Tile in Plazas
10. Change Copper Roof to Pre-finish Metal Roofing
11. Substitute Architectural Metal Panels at Roof Line to Standard Metal Panels
12. Change outer wall of grease duct from Stainless Steel to Aluminized Steel
13. Eliminating Plastic in Stairwells

Sincerely,


Simms M. Leitner
President

wbf



February 7, 2008

Edifice, Inc.
1401 West Morehead Street
Charlotte, NC 28208

RE: State project H47-9533-SG-B, Campus Center Construction Bid

Dear Sirs;

Your bid has been determined non-responsible as described in section 6.15 C-2 of the Manual For Planning And Execution Of State Permanent Improvements Part II. Your listed subcontractor, Full Service Plumbing Co. Inc. did not possess the proper license limitation at the time of the bid.

We are also required to notify the South Carolina Department of Labor, Licensing and Regulation of our determination.

Should you have any questions, please contact me at 803-323-2261.

Sincerely,

A handwritten signature in black ink, appearing to read 'Walter A. Hardin'. The signature is fluid and cursive.

Walter A. Hardin, Associate Vice President, Facilities Management



WINTHROP
UNIVERSITY

February 7, 2008

Manhattan Construction Company Co., Inc.
401 Brookfield Parkway
Suite 400
Greenville, SC 29607

RE: State project H47-9533-SG-B, Campus Center Construction Bid

Dear Sirs;

Your bid has been determined non-responsible as described in section 6.15 C-2 of the Manual For Planning And Execution Of State Permanent Improvements Part II. Your listed subcontractor, Full Service Plumbing Co. Inc., did not possess the proper license limitation at the time of the bid.

We are also required to notify the South Carolina Department of Labor, Licensing and Regulation of our determination.

Should you have any questions, please contact me at 803-323-2261.

Sincerely,

Walter A. Hardin, Associate Vice President, Facilities Management



WINTHROP
UNIVERSITY

February 7, 2008

Choate Construction Company
2907 Providence Road
Suite 400
Charlotte, NC 28211

RE: State project H47-9533-SG-B, Campus Center Construction Bid

Dear Sirs;

Your bid has been determined non-responsible as described in section 6.15 C-2 of the Manual For Planning And Execution Of State Permanent Improvements Part II. Your listed subcontractor, Full Service Plumbing Co. Inc., did not possess the proper license limitation at the time of the bid.

We are also required to notify the South Carolina Department of Labor, Licensing and Regulation of our determination.

Should you have any questions, please contact me at 803-323-2261.

Sincerely,

Walter A. Hardin, Associate Vice President, Facilities Management

**SE-370**
Notice of Intent to Award

EXH. F

AGENCY: Winthrop University

(Name)

PROJECT: H47 - 9533 - SG - BCampus Center Construction

(Number)

(Name)

TO ALL BIDDERS:

The Agency has determined that the below-named Bidder is responsible in accordance with the requirements of the Bidding Documents and has submitted the lowest responsive Bid. The Agency hereby announces its intent to enter into a contract with this Bidder for the construction of the above-named Project, subject to the provisions of SC law.

NAME OF BIDDER: Leitner Construction Co. Inc.

DATE BIDS WERE RECEIVED:

January 29, 2008

AMOUNT OF BASE BID:

\$24,639,715.00ALTERNATE(S) ACCEPTED: # N/A

TOTAL:

N/A

TOTAL AMOUNT OF BASE BID PLUS ACCEPTED ALTERNATE(S):

\$24,639,715.00

Remarks: (In accordance with Chapter 6 of the OSE Manual, explain any negotiations that resulted in a change in either the Base Bid or the accepted Bid Alternates) Negotiated price with lowest responsible bidder.

RIGHT TO PROTEST:

Any actual bidder, offeror, contractor or subcontractor who is aggrieved in connection with the intended award or award of this Contract may protest to the State Engineer in accordance with Section 11-35-4210 of the SC Code of Laws, as amended, within 15 days of the date the *Notice of Intent to Award* is posted.


(Signature of Awarding Authority)

February 07, 2008

(Date Posted)

Walter A. Hardin

(Print or Type Name of Awarding Authority)

Associate Vice President, Facilities

(Awarding Authority Title)

INSTRUCTIONS TO AGENCY:

1. MAIL A COPY OF THE FINAL BID TABULATION TO ALL BIDDERS AND OSE WITHIN 10 DAYS OF BID OPENING.
2. POST A COPY OF THIS FORM ON THE DATE AND AT THE LOCATION ANNOUNCED AT BID OPENING.
3. MAIL A COPY OF THIS FORM TO ALL BIDDERS AND THE OSE.

South Carolina Contractor's Licensing Board QUALIFYING PARTY CERTIFICATE

This is to certify that:

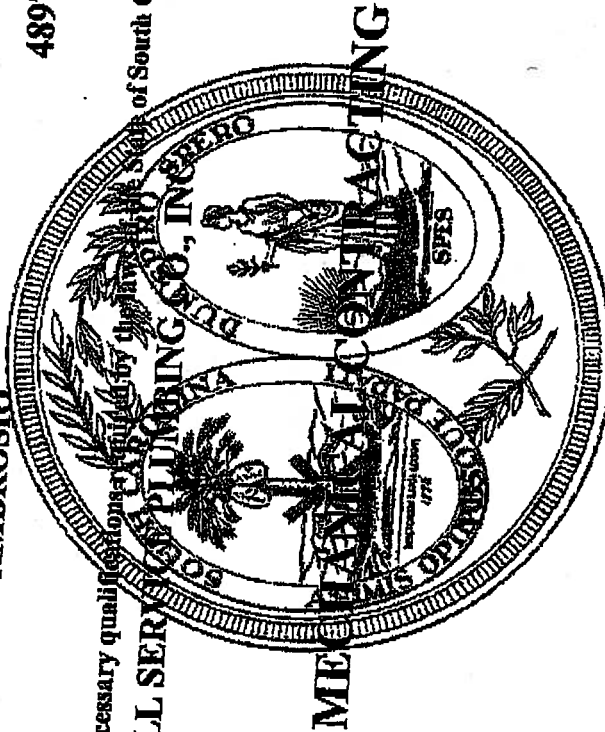
STEVEN

Qualifying Party Number:

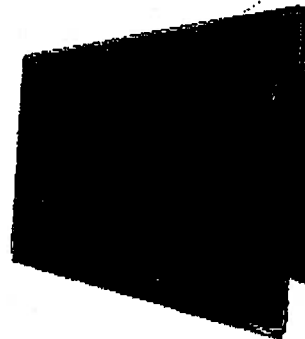
4897

Has given satisfactory evidence of the necessary qualifications for the following classification(s):

FULL SERVICE PLUMBING CO., INC. of South Carolina and is authorized to be listed as a



For the following classification(s):



Date Issued: **September 29, 2000**

Rebecca E. Dilling

Administrator

This certificate constitutes the granting of a license or a renewal of a license by this board, but only that the individual listed above meets the qualifications as a qualifying party for a general contractor.

EXH. H

Professional Licensing Boards | Board Member Lookup

Main Menu : **Contractors** Note: All fields are not required for searching

Last Name:

First name:

License number:

City:

Company name: full service

Classification: All

Find

Your search returned: 1 record(s).

CLICK ON THE LICENSE NUMBER BELOW TO DISPLAY VERIFICATION INFORMATION FOR THAT RECORD.
PLEASE SCROLL DOWN FOR "STATUS" CLARIFICATIONS

(Click the underlined text in this column)	Status	Type	Last	First	Suffix	Business	City	State
<u>98634</u>	Active	MECHANICAL CONTRACTOR				FULL SERVICE PLUMBING CO INC	MATTHEWS	NC

Residential Builders Licensee Lookup

Search Tip:

- For BEST results, only type in the first few characters of your search. YOU CAN ONLY SEARCH THE LICENSED NAME WHICH WILL EITHER BE A COMPANY NAME OR THE INDIVIDUALS NAME; ATTEMPTING TO SEARCH BOTH NAMES AT THE SAME TIME WILL YIELD 0 RECORDS.
- When SEARCHING by license number, ENTER NUMBERS ONLY. do not enter G or M.
- Do not use any punctuation marks when searching a "Company name"
- IF YOU ARE AN APPLICANT CHECKING THE STATUS OF YOUR APPLICATION AND THE SEARCH RETURNS "0 RECORDS", CHECK HERE FIRST TO SEE IF YOUR APPLICATION IS PENDING BEFORE CONTACTING THE LICENSING BOARD: [PENDING APPLICATION CHECK](#). IF YOU ARE SHOWN TO BE PENDING, YOUR APPLICATION HAS BEEN RECEIVED AND IS BEING PROCESSED. YOU WILL BE CONTACTED BY MAIL OR FAX IF ITEMS ARE MISSING OR INCOMPLETE.

Status Clarification:

- **ACTIVE:** Licensee is current and properly licensed to work and pull permits in the state of SC.
- **APPROVED:** Applicant/Licensee is in final stages of becoming ACTIVE.
- **ACTIVE IN RENEWAL:** Licensee should be in the process of renewing their license. Licensee may still work/pull permits until the EXPIRATION DATE. After the EXPIRATION Date, licensee is LAPSED and cannot work/pull permits until status shows ACTIVE.
- **PENDING:** before accepting any jobs FROM THIS ENTITY, you must first contact this board at (803) 896-4686 to see if the contractor is within a 90-day grace period and can still work; otherwise, they can only do work that is unregulated UNTIL THEY BECOME "ACTIVE": [CLB Unregulated and Exempt.pdf](#)
- **INACTIVE:** Contractor cannot bid, pull permits, or do any regulated contracting work above the \$5,000 contract limit. See work/jobs that are unregulated here: [CLB Unregulated and Exempt.pdf](#)
- **LAPSED:** This license is lapsed/cancelled; the contractor cannot bid, pull permits, or do any regulated contracting work above the \$5,000 contract limit. See work/jobs that are unregulated here: [CLB Unregulated and Exempt.pdf](#)
- **SUSPENDED:** The license has been suspended by the board until further notice. No work or permits can be pulled during this time.

FULL SERVICE PLUMBING CO INC
3937 SMITH FARM RD
MATTHEWS, NC 28104
(704) 821-8746

License number: 98634
License type: MECHANICAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2009
First Issuance Date: 04/09/1998
Classification: PB3

Supervises
STEVEN AMBROSIO - (CQM)

[Click here for classifications key](#)

CURRENT CLASSIFICATION ABBREVIATIONS & FINANCIAL PROJECT LIMITATIONS**GENERAL CONTRACTORS****MECHANICAL CONTRACTORS**

Building	BD	Air Conditioning	AC
Highway	HY (AP, CP, BR, GD, & HI)*	Electrical	EL
Asphalt Paving	AP	Heating	HT
Concrete Paving	CP	Lightning Protection	LP
Bridges	BR	Packaged Equipment	PK
Glass & Glazing	GG	Plumbing	PB
Grading	GD	Process Piping	1P or 2P***
Highway Incidental	HI	Refrigeration	RG
Public Utility Electrical	1U or 2U**		
Pipelines	PL		
Water & Sewer Lines	WL		
Water & Sewer Plants	WP		
Boiler Installation	BL		
Concrete	CT		
Boring & Tunneling	BT		
Marine	MR		
Masonry	MS		
Pre-engineered Metal Buildings	MB		
Interior Renovation	IR		
Railroad	RR		
Specialty Roofing	SR		
General Roofing	GR		
Structural Framing	SF		
Structural Shapes	SS		
Swimming Pools	SP		
Wood Frame Structures	WF		

* The Highway classification "HY" is given to licensees who have passed all of the following exams: AP, CP, BR, GD & HI.

** 1U is the Public Utility Electrical classification for those licensed prior to 4/1/99; licenses issued after 4/1/99 will be given the classification as 2U and may not engage in stadium lighting.

*** Process Piping is designated as 1P prior to 4/1/99. Those licensed in Process Piping after 4/1/99 is designated as 2P and may not engage in boiler work.

FINANCIAL GROUP LIMITATION PER PROJECT**GENERAL CONTRACTORS**

Group 1	\$5,000 to \$ 30,000
Group 2	to \$100,000
Group 3	to \$350,000
Group 4	to \$750,000
Group 5	to Unlimited

MECHANICAL CONTRACTORS

Group 1	\$5,000 to \$ 17,500
Group 2	to \$ 30,000
Group 3	to \$ 50,000
Group 4	to \$125,000
Group 5	to Unlimited

REVISED 5/24/01